

**RESOLUTION NO. 15-005**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS  
APPROVING CONDITIONAL USE PERMIT NO. UP15-0001 TO WAIVE THE LIMIT  
ON THE NUMBER OF SPECIAL EVENT OCCURENCES PER CALENDAR YEAR  
AND TO WAIVE THE MINIMUM LAPSE PERIOD BETWEEN EACH EVENT  
LOCATED AT 790 SYCAMORE DRIVE**

**WHEREAS**, on January 6, 2015, an application was submitted by Trish Johnson of the Stuart Rental Company located at 454 South Abbott Avenue, Milpitas, CA 95035 ("Applicant") for a Conditional Use Permit to waive the limit on the number of special event occurrences per calendar year and to waive the minimum lapse period between each event. The property is located within the Industrial Park Zoning District (APN: 86-03-022).

**WHEREAS**, Milpitas Zoning Code Section XI-10-13.11(G)(1)(d) limits the number of special events occurrences on a property to four (4) during a calendar year and a minimum thirty (30) days shall lapse between occurrences.

**WHEREAS**, Linear Technology is located at 790 Sycamore Drive, Milpitas, CA 95035 and proposes to have five (5) employee appreciation events on its property during the 2015 calendar year, currently scheduled as follows: January 6<sup>th</sup>, February 4<sup>th</sup>, April 17<sup>th</sup>, July 24<sup>th</sup>, and October 16<sup>th</sup>.

**WHEREAS**, on January 6, 2015, the Planning Division approved a minor site development permit for a special event (employee appreciation) scheduled on January 16, 2015 for Linear Technology to be located at 790 Sycamore Drive and there is a subsequent special event scheduled on February 4, 2015 at the same location.

**WHEREAS**, the Applicant on behalf of Linear Technology has requested a Conditional Use Permit under Milpitas Zoning Code Section XI-10-13.11(G)(1)(e) to waive the limit on the number of special event occurrences per calendar year and to waive the minimum lapse period between each event to be located a 790 Sycamore Drive, Milpitas, CA 95035.

**WHEREAS**, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project exempt under CEQA.

**WHEREAS**, on January 28, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

**NOW THEREFORE**, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

**Section 1:** The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the

public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

**Section 2:** The project is categorically exempt from further CEQA review under Section 15304 of the CEQA Guidelines (Minor Alterations to Land) because it will not have negligible or permanent effects on the environment due to its temporary status.

**Section 3:** *Conditional Use Permit (Section XI-10-57.04(F)) - The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP15-0001:*

- a. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The project is consistent with this finding because the special events are temporary and only open to employees and is located towards the rear of the building in the parking lot area. The project will provide five (5) fire extinguishers, four (4) luminous exit signs and four (4) no smoking signs. The special events will be held generally from the hours of 3:00 pm to 6:00 pm and the Permittee will be required to remove all debris and litter after the event.

- b) The proposed use is consistent with the Milpitas General Plan..*

The project is consistent with this finding because the purpose of the special events is for Linear Technology to show appreciation for their employees. This will encourage economic pursuits by assisting with employee retention.

The project is consistent with the General Plan, specifically with the following policy:

- Policy 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.

- c) The proposed use is consistent with the Milpitas Zoning Ordinance:*

The project is consistent with this finding because as a condition of approval, the applicant shall ensure that the site is free of debris, litter or any other evidence of the temporary use. Additionally, with approval of a Conditional Use Permit, the Planning Commission may waive the limit on the number of special event occurrences in a calendar year and the minimum lapse period between each event.

**Section 4:** The Planning Commission of the City of Milpitas hereby adopts Resolution No. 15-005 approving Conditional Use Permit No. UP15-0001 authorizing a

total of five (5) Linear Technology employee appreciation special events to be located at 790 Sycamore Drive during 2015 calendar year and waives the minimum thirty (30) lapse period between events, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 incorporated herein.

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Milpitas on January 28, 2015.

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Chair

**TO WIT:**

**I HEREBY CERTIFY** that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on January 28, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal				
Lawrence Ciardella				
Hon Lien				
Rajeev Madnawat				
Ray Maglalang				
Zeya Mohsin (Alternate)				
Demetress Morris				
Gurdev Sandhu				

**EXHIBIT 1****CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT NO. UP15-0001****General Conditions**

1. General Compliance. The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This Conditional Use Permit No. UP15-0001 (“Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed.
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit.
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
  - a. Acceptance of this Permit by Permittee; and
  - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
  - a. Completes a foundation associated with the project; or
  - b. Dedicates any land or easement as required from the zoning action; or
  - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Project Job Account. If Permittee’s project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee’s private job account is paid in full and the required deposit has been made.

Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit.

7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1).
8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution.
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution.
10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the

indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.

13. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
14. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
15. Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on January 28, 2015 in accordance with these Conditions of Approval.

Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

#### **Project Specific Conditions**

16. After each event, Permittee shall ensure that the site shall be left free of debris, litter, or any other evidence of the temporary use. **(P)**
17. Permittee shall comply with all City requirements, including obtaining any required City permits or approvals for special events to be held at 790 Sycamore Drive, Milpitas, CA 95035. **(P)**

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney